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DEPARTMENT OF STATE

Memorandum of Conversation

Argentin

DATE: November 11, 1977

SUBJECT: RIGHT OF OPTION PROCEDURES

PARTICIPANTS: ROBERTO A. LOPEZ DELGADO, LAWYER, MINISTRY OF INTERIOR
JUAN LEZICA, FOREIGN OFFICE WORKING GROUP ON HUMAN RIGHTS
F.A. HARRIS, POLITICAL OFFICER, AMEMB BUENOS AIRES

PLACE: BUENOS AIRES RESTAURANT

Dr. Lopez is the attorney for the Director General of Police and Public Relations in the Ministry of Interior. In that capacity he is the Ministry's legal advisor on all matters of law regarding the right of option, disappearance cases, etc. Mr. Lezica is the member of the Foreign Office Working Group on Human Rights (FOWG) responsible for responding to requests from Embassies in Buenos Aires on individual human rights cases. During the course of a two hour luncheon the following subjects were discussed:

RIGHT OF OPTION EMBASSY CERTIFICATION PROBLEMS

During a discussion of the procedures necessary for Embassy issuance of a certificate under the Argentine Right of Option regulations, Harris stressed the difficulties facing Embassies. Harris specifically pointed to the U.S. legal requirements that a visa (certificate) applicant must appear before a U.S. Consular official, be given a medical examination by a U.S. Public Health Service certified doctor, have fingerprints taken, etc. Harris also mentioned that cooperation from the Argentine authorities was needed in providing police and military records.

Mr. Lopez appreciated the problems posed. He said that a number of the formalities, for example, obtaining police and military records could be done by family or friends of the applicant. However, he admitted that there were difficulties regarding the Consular interview, fingerprinting, and the medical examination.

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It was agreed that the Foreign Ministry Under Secretary, Capt. Allara, would send a memo to his counterpart Col. Ruiz Palacios at the Ministry of Interior to raise formally these questions. In the meantime Mr. Lopez would discuss it informally with Col. Sullivan, the Director General for Police Affairs, and with the Under Secretary of Interior. All agreed that there were legitimate problems which had to be worked out. When asked why the certificate was the first step in the right of option process, Lopez indicated that the Ministry had several bad experiences in administering Law 21,449 where the Ministry had granted a person permission to leave the country, but an Embassy could not be found to issue that person a visa. To avoid this problem in the future, it was decided that in the new Law a certificate would be required before an application could be considered. Harris pointed out that this shifted the burden to the Embassies and made them review all persons requesting certificates, even though a substantial number of these individuals would not in fact be allowed to leave the country. This was further complicated by lack of access to the visa applicants.

MINISTRY OF INTERIOR ORGANIZATION

Mr. Lopez said that the Office of the Director General for Police and Public Affairs has the responsibility for the administration of Public Law 21,650 on the Right of Option. This is a continuation of the responsibilities they previously had in administering Law 21,499, which established administrative procedures for PEN detainees to leave the country. Mr. Lopez indicated that there are less than 30 people working in the Director General's office to handle both the right of option program and the investigation of disappearance cases in Argentina.

Director General Col. Sullivan was an Army Officer. His de facto deputy was Teniente de Navio Llanos. Col. Sullivan reported directly to Under Secretary Ruiz Palacios, the number two person in the Ministry.

Mr. Lopez outlined the Ministry's plans for administering the new Right of Option Law. Forms have been distributed to all penal institutions throughout Argentina for PEN detainees (not ordinary criminals) to present to foreign Embassies to obtain their right of option certificates. When the detainee's family or friends obtain the Right of Option Certificate, it is appended to the detainee's petition to leave the country and forwarded by the prison authorities to the Ministry of the Interior. The government of Argentina has 120 days to respond to each petition starting from the date the petition reaches the Ministry of Interior. The working group at the Ministry will send out information requests to all the relevant government agencies asking for information and their comments on the case. The Agencies will include all three military services,

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SIDE (Central Intelligence Agency), Federal Police and involved provincial police and others depending on the case. A summary of the information received will then be prepared for consideration by the Senior Review Board pursuant to the law. The Ministry of the Interior Working Group will not make recommendations to the senior review group; however, the absence of an objection from the reviewing agencies would in fact be an affirmative recommendation. Lopez indicated that the Ministry staff was not staffed or prepared to conduct any investigations regarding the cases. Their job was only to coordinate the comments of other agencies of the government in a timely way.

COMMENT

On December 5 Minister of Interior Harguindeguy assured Ambassador Castro (Buenos Aires 9282) that consular officers would be allowed to visit prisoners for whom this kind of interview was required as a step in obtaining an embassy "certificate" in pursuance of a Right of Option release and departure from Argentina. Harguindeguy said that he had also informed the Israeli Ambassador of this permission.

A U.S. Embassy officer subsequently interviewed Guillermo Vogler at the prison where he was being held, along with a doctor approved for doing visa physicals. In this way Vogler's visa was pre-prepared so that when Vogler was released on December 22 he could leave immediately for the U.S.

The Embassy is seeking a new case for which to request a consular interview, as a further test of the Ministry of Interior's continuing willingness to permit consular access.

An interesting facet of the system described by Lopez is that one agency's "Blackball" can apparently negate a prisoner's release. We continue to see the embassy certification system a serious obstacle to Right of Option petitions. Although ten "option" releases were announced with the "Christmas Release List" of December 23 (Buenos Aires 9881), we doubt if these cases were processed in a routine manner and can be taken to mean that option procedures are "flowing".

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